

IN THE CIRCUIT COURT FOR THE CITY OF ST. LOUIS
STATE OF MISSOURI

PROGRESS PROJECT, LLC)
Successor in Interest to ST. LOUIS MARKET)
MANAGEMENT, INC.,)

Plaintiff,

Cause No.:

VS.

**FAMILY DOLLAR STORES
OF MISSOURI, LLC, successor in Interest to
FAMILY DOLLAR STORES OF MISSOURI,
INC.,**

Any Person authorized to Accept Service
3946 S. Grand Blvd.
St. Louis, MO 63118

Defendant.

PETITION

COMES NOW Progress Project, LLC successor in interest to St. Louis Market Managment, Inc. (“Plaintiff”), and for its causes of action against Family Dollar Stores of Missouri, LLC, successor in interest to Family Dollar Stores of Missouri, Inc. (“Defendant”), states to the Court as follows:

GENERAL ALLEGATIONS

1. Plaintiff is a Missouri limited liability company who owns the strip mall located at 8971 Halls Ferry Rd., in the City of St. Louis.
2. Defendant is a Virginia limited liability company registered to do business in the State of Missouri Brainchild Holdings, LLC (“Brainchild”) is a Missouri limited liability company, doing business in the City of St. Louis and can be served as cited above.

2. Plaintiff's and Defendant's predecessors entered into a lease for the rental of the Premises located at 8971 Halls Ferry Rd, operating store No. 21301 (the "Premises") in July, 1999 with an ending date of December 31, 2019 (the "Lease"). A copy of the lease is attached hereto and incorporated herein as Exhibit "1".

3. Prior to the termination of the Lease, Plaintiff and Defendant entered into a lease amendment, granting four 5-year extensions of the Lease, with the first extension terminating on December 31, 2024 (the "Amendment"). A copy of the Amendment is attached hereto and incorporated herein as Exhibit "2".

4. Pursuant to the Amendment, the Lease will be automatically extended into the next extended term unless the tenant gives an 180 days written notice cancelling the extended term. *See paragraph 1. extended terms and rent of the Amendment.*

5. Pursuant to 1338 Aloha Drive, St. Louis, MO 63126. *See paragraph 2. Notices of the Amendment.*

6. Pursuant to the terms of the Lease, Defendant was supposed to pay Plaintiff for its proportionate share of the Common Area Maintenance. *See Paragraph 12B of the Lease.*

7. Pursuant to the terms of the Lease, Defendant was to reimburse Plaintiff for the increase in real estate taxes over the first year of the Lease. *See Paragraph 3 of the Lease.*

8. Commencing in early 2024, Plaintiff reached out to Defendant, via email and telephone calls, concerning the extension of the Lease beyond 2024, that the required notice was to be sent to the Aloha address, and other issues concerning the Lease and the Amendment with no response from Defendant.

9. On July 19, 2024, Plaintiff sent to Defendant written notice acknowledging non receipt of cancellation and that the Lease would be extended for an additional five years. A copy of the notice is attached hereto and incorporated herein as Exhibit "3".

10. At the end of July 2024, Monica Fincham, an employee of the Defendant, called Plaintiff and informed Plaintiff that a notice of non-renewal was sent to Plaintiff on June 4, 2024; however, Plaintiff never received said notice because notice was sent to the wrong address. A copy of the Family Dollar notice is attached hereto and incorporated herein as Exhibit “4”.

11. Defendant has attempted to explain the reason for using the wrong address in that a request for updated contract information for Plaintiff was provided to Defendant in December 2022, giving a different contact address; however, the Lease and Amendment were never revised to show this alleged new address.

12. Further, in May 2024 emails were sent to Defendant stating the letters were being sent to the wrong address and the address as provided in the Amendment should be used for all notices concerning the Lease and the Amendment, no response to these emails was ever made by Defendant. Attached hereto and incorporated herein are the correspondence and emails between Plaintiff and Defendant, as Exhibits “5” and “6” respectively.

13. In November 2024 Plaintiff became aware that Defendant was having a going out of business sale at the Premises, no notice of closure was given to Plaintiff.

14. The time of the filing of the Petition, Defendant has not surrendered the Premises to Plaintiff, nor is Defendant paying rent pursuant to the terms of the Lease and the Amendment.

15. Jurisdiction and venue are proper in this Court, in that that this lawsuit concerns property located in the City of St. Louis, Missouri, and all parties are located in, and/or can be found within, the City of St. Louis, Missouri.

COUNT I –DECLARATORY JUDGMENT

COMES NOW, Plaintiff and for its Count I of its Petition against Defendant, alleges as follows:

16. Plaintiff hereby incorporates Paragraphs 1-15 by this reference as if fully set forth herein.

17. The actions of Plaintiff and Defendant are controlled by the terms of the Lease and the Amendment.

18. A justiciable controversy exists in that Defendant declared that it sent proper notice to Plaintiff concerning the non-renewal of the extension and Plaintiff position is that it did not receive timely notice from Defendant due to Defendant using an incorrect address.

19. Plaintiff has no adequate remedy at law in that Defendant continues in possession of the Premises but is not paying rent and Defendant's position is that the Lease and Amendment are terminated.

WHEREFORE, Plaintiff requests a declaration that Defendant has timely terminated the Lease and the Amendment, that Defendant be order to comply with the terms of the Lease and the Amendment, including, but not limited to, payment of rent and other charges; for its costs and attorney's fees; and for such other and further relief this Court deems just and proper.

COUNT II – BREACH OF CONTRACT

COMES NOW, Plaintiff, and for Count II against Defendant, states and alleges as follows:

20. Plaintiff hereby incorporates Paragraphs 1-15 by this reference as if fully set forth herein.

21. Defendant has breached the terms of the Lease by not sending proper notice to the

address cited in the Amendment.

22. Defendant has breached the terms of the Lease while retaining possession of the Premises and not paying rent.

23. Defendant breached the terms of the Lease and the Amendment by not making payments to Plaintiff for its proportionate share of the Common Area Maintenance and by not paying its share of the real estate taxes when invoiced by Plaintiff.

24. Plaintiff has incurred damages and will continue to incur damages as a direct and proximate result of Defendant's breach of the Lease and the Amendment

WHEREFORE, Plaintiff prays for judgment in their favor and against Defendant and for its actual damages incurred as a result of Defendant's breach, in amount exceeding \$25,000.00; attorney's fees incurred herein; costs incurred herein; and such other and further relief as this Court deems just and proper in the circumstances.

By: 
Patricia A. Wilcox, attorney and agent

STATE OF MISSOURI)
)
COUNTY OF ST. LOUIS)

Patricia A. Wilcox being duly sworn, upon her oath says that the statements in the foregoing complaint are true to the best of her knowledge and belief. Sworn and subscribed to before me this 30th day of January, 2025.

Linda Lea Jones
Notary

My Commission Expires: 10-18-2025



Respectfully submitted,

/s/ Patricia A. Wilcox
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